

Approved: WOW

Date 7/22/92

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Senator Wint Winter Jr. at 9:30 a.m. on February 14, 1992 in room 514-S of the Capitol.

All members were present except:
Senator Oleen who was excused.

Committee staff present:

Mike Heim, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Paul Morrison, Johnson County District Attorney
Susan McGee, Haven
Janis Lord, National Director of Victim Assistance for Mothers Against Drunk Driving
J. Thomas Marten, McPherson
John Donham, Overland Park
Gene Olander, Kansas County and District Attorneys Association
Cheryl Stewart, Osage County Attorney
Suzanne James, Topeka
John and Terry Ellis, Olathe
Tina Crozier, Osawatomie
Sherry Clayton, Topeka
Dorothy Miller, Kansas Coalition Against Sexual and Domestic Violence
Gigi Felix, Kansas National Association of Social Workers, Inc.
Representative Joan Hamilton

Chairman Winter brought the meeting to order by continuing the hearing for SCR 1634.
SCR 1634 - providing certain constitutional rights for victims of crime.

Paul Morrison, Johnson County District Attorney, testified in support of SCR 1634. (ATTACHMENT 1) He also presented the position statement of the Kansas County and District Attorneys Association on the rights of victims of crime. (ATTACHMENT 2)

Mr. Morrison also presented the Committee with written testimony from Ralph Butler, Wichita, in support of SCR 1634. (ATTACHMENT 3)

Susan McGee, Haven, spoke on behalf of her daughter, Rachel, in support of SCR 1634. (ATTACHMENT 4)

Janis Lord, National Director of Victim Assistance for Mothers Against Drunk Driving, testified in support of SCR 1634. (ATTACHMENT 5)

J. Thomas Marten, McPherson, testified in opposition to SCR 1634. (ATTACHMENT 6)

John Donham, Overland Park, testified in opposition to SCR 1634. (ATTACHMENT 7)

Gene Olander, Kansas County and District Attorneys Association, shared their concerns regarding SCR 1634. (ATTACHMENT 8) He suggested a possible solution short of a constitutional amendment would be to send funds directly to the counties so they would comply with the current statutes.

Chairman Winter requested Mr. Olander and other interested parties to provide specific amendatory language to address the concerns raised.

Cheryl Stewart, Osage County Attorney, testified in opposition to SCR 1634. (ATTACHMENT 9)

Suzanne James, Topeka, testified in support of SCR 1634. (ATTACHMENT 10)

John and Terry Ellis, Olathe, testified in support of SCR 1634. (ATTACHMENT 11)

Tina Crozier, Osawatomie, testified in support of SCR 1634. (ATTACHMENT 12)

Sherry Clayton, Topeka, testified in support of SCR 1634. (ATTACHMENT 13)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 9:30 a.m. on February 14, 1992.

Dorothy Miller, Kansas Coalition Against Sexual and Domestic Violence, testified in support of SCR 1634.
(ATTACHMENT 14)

Gigi Felix, Kansas National Association of Social Workers, Inc., testified in support of SCR 1634.
(ATTACHMENT 15)

Representative Joan Hamilton presented testimony on SCR 1634. (ATTACHMENT 16)

Written testimony regarding SCR 1634 was received from:
Anna Grange (ATTACHMENT 17)
Kim Anguiano (ATTACHMENT 18)
Joseph O'Sullivan (ATTACHMENT 19)
Joseph L. McCarville III (ATTACHMENT 20) and
David L. Gottlieb (ATTACHMENT 21)

The meeting was adjourned at 10:50 a.m.

VISITOR SHEET
Senate Judiciary Committee

(Please sign)

Name/Company	Name/Company
John Smith	Ks Bar Assoc
JOHN C DONHAM	ATTORNEY - OVERLAND PARK, KS
Cheryl Ann Stewart Esq.	Osage County Attorney
Suzanne James	citizen
Kim Arguiano	citizen
Alice Bullard	citizen
John R. Ellis	citizen
Suzanne Ellis	citizen
Delma Rourke	Hope Unlimited (Shelter)
R. L. ?	AF
Jessica Wallsmith	citizen
Dixie Scott	Hope Unlimited (Shelter)
Dawn Sullivan	citizen
Melba Rogers	Hope Unlimited (Shelter)
T Bowman	W.U.
Kabeling	W.U.
Janice Ford	Mothers Against Drunk Driving
Sally Hogstrater	Mothers Against Drunk Driving
Sherry Cantor	University of Kansas / K-NASW
Gus Felici	Ks Chapt Nat'l Assoc of Social Workers
Max Vutheland	Kansas MADD
Jim Tom	citizen
Caryn Perry	citizen
Dina Crozier	citizen
Dorothy Miller	KS Coalition Against Sexual & Domestic Violence
Betty M. Moore	Kansas Action for Children

STATE OF KANSAS
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY

PAUL J. MORRISON
DISTRICT ATTORNEY

JOHNSON COUNTY COURTHOUSE
P.O. BOX 728, 6TH FLOOR TOWER
OLATHE, KANSAS 66061
913-782-5000, EXT. 5333

February 14, 1992

Senate Judiciary Committee

Re: Kansas Victims Rights, Constitutional Admendment

Dear Members of the Committee:

I come to you today in a dual capacity. First, I speak as a representative of the Board of Directors of the Kansas County District Attorney's Association. Secondly, I speak to you as the Johnson County District Attorney. Attached hereto, on a separate sheet of paper, is the position statement of the KCDA on this amendment.

As a prosecutor for the past twelve years, I can attest to the misery I have seen inflicted upon countless crime victims by the perpetrators of crime. Many of these people have suffered irreparable physical and emotional damage as a result of the atrocities committed against them.

Only in the last few years have we in the criminal justice system really figured out that one of our most important functions is to make the system more helpful to victims of crime. With a system that is perpetually overloaded, it is easy to forget about people who are most affected by the crimes that we prosecute. As such, we should be for anything that helps sensitize us to the plight of victims. The Constitutional Amendment outlining victims rights is certainly in that order.

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Attachment 1

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We feel that it is equally important, however, to remind law makers that we have to be provided the tools of which to do our jobs properly. This includes funding for programs for victims, as well as victims services.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul J. Morrison". The signature is fluid and cursive, with a large initial "P" and "M".

Paul J. Morrison
District Attorney

PM/kb

KANSAS COUNTY AND DISTRICT ATTORNEY'S ASSOCIATION

POSITION STATEMENT ON

THE RIGHTS OF VICTIMS OF CRIME

The Kansas County and District Attorneys Association, in order to ensure the fair and compassionate treatment of victims of crime and to increase effectiveness of the criminal justice system, supports victims rights that provide both substantive and tangible benefits to victims of crime.

In order to ensure these rights are implemented, there must be increased State funding of programs for victims; including victim services (victim/witness coordinators), and victim and witness protection and relocation programs.

Whether these rights are implemented by constitutional amendment or by statute is a legislative prerogative.

Senate Judiciary Committee
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Attachment 2

Dear members of the committee...

My name is Ralph E. Butler. I'm from Wichita, Kansas. I appeared before this committee in person, in February 1990, to encourage your affirmative vote in favor of the HARD 40.

For those of you who may not have been present that day I greet you through my advocate, Mr. Paul Morrison, District Attorney of Johnson County in Olathe. And I have asked Paul to hand you all a photo of my little girl Joan Marie Butler taken in December, 1988, at age 23. March 28th. will be Joan's 27th birthday. Had she lived we would be looking forward to a great celebration. Instead, the date only brings us sadness because its a special day that reminds us that Joan was abducted and brutally murdered on Father's day 1989.

My wife and I were married in 1958. Joan came along in 1965. I held her moments after she was born. I helped my wife care for her and love her. At the proper time we put her teeth in braces for that future PERFECT SMILE. We went to the expense of sending her to parochial school. This, too, at considerable expense...for 12 long years. Then on to KU for 4 more expensive years...then into the work force, to take her place as a productive young woman.

In May 1990 we found out about the Crime Victims Compensation Board, and were urged to make a claim for reimbursement of our expenses incurred during the search, then the subsequent preliminary hearing for Joan...not to mention the expense incurred for travel and hotel accomodations during the trial in Oct. 1990. 20 months after our claim was submitted this Crime Victims Compensation Board held a meeting, Jan. 10, 1992. Our claim was denied because it contained expenses that are ineligible in the statute...K.S.A. 74-7301(a). I have not read that statute. But it is my opinion that when passed it did not take into consideration the type of case that we presented to them.

As a DENIED victim of crime, due to statute...I hereby passionately urge this committee to vote in favor of a Victims' Rights Constitutional Amendment.

I assume that all, or at least most of you on this committee, are parents. At the very least you have someone you especially love and care for. Someone that means so much to you that losing them would cause you untold sadness, distress, and psychological trauma.

While I have been denied my claim for compensation...the person responsible for this claim, Richard Grissom, has had his rights protected to the N'th degree. The State has spent thousands and thousands of dollars on hearings, trials, and incarceration... and NOW appeals to the Kansas Supreme Court. Something is very very much OUT OF BALANCE in the way that rights are decided for murderers versus victims. Even if we never receive any compensation...I at least offer my support for this constitutional Amendment to ensure that we as crime victims are guaranteed the right to be notified, present and heard at all critical stages of the criminal justice process. Thank you very much for your attention.

Ralph E. Butler, Jr.



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Attachment 3

SENATE CONCURRENT RESOLUTION NUMBER 1634
SUSAN AND RACHEL MCGEE

IN May 1987, Rachel was hit by a drunk driver. He was charged with a DUI which the state sees as a misdemeanor charge. As Rachel lay in a coma, he was given probation. Six months later he was arrested on his THIRD liquor violation in a year. At that time he was forced to serve his original sentence of six months. Rachel was also continuing to serve time. She was in hospitals for two and a half years.

We were never informed of any court hearings. Through our own efforts, we obtained court information and attended the multitude of hearings. IN each of his appearances, we were only spectators.

• His lawyers requested a hearing for an early release. It was granted. As I sat in the courtroom and listened, his lawyer stated that he needed to put this behind him and get on with his life. **HOW CAN RACHEL PUT THIS BEHIND HER?** My daughter was a cheerleader, played in the band, and was president-elect of her senior class. Her life was put on hold for three years while she was hospitalized. Getting on with her life now won't be quite the same. Is confining her to this chair for life the same as hitting a lamp post? **I THINK NOT!!!** The legislature for the state of Kansas should be ashamed of its attitudes toward DUI!!

Our state needs this constitutional amendment to insure victims rights. Victim's impact statements do have a place in our courts. It is imperative that the court understands the full extent of victim injuries. Oft times, as in our case, the hurt goes on long after a broken leg is healed. While criminals are guaranteed their rights, victim's are often left to fend for themselves emotionally, financially, and legally. Should we, as victims of crime, also be victims of our own legal system?

There are programs to help victims, but how do we know what they are? At a time of unreal stress and anxiety, to have to hunt for help is unrealistic. There is victims compensation, but we knew nothing of it until the time limit had expired. In 1987, as victims, we had nbo rights and in 1992, it isn't much better.

Thank you,

Susan McGee,

Rachel McGee.

sm

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Attachment 4

TESTIMONY OF JANICE LORD
MOTHERS AGAINST DRUNK DRIVING
SENATE JUDICIARY COMMITTEE

FEBRUARY 14, 1992

I AM JANICE LORD, NATIONAL DIRECTOR OF VICTIM SERVICES FOR MOTHERS AGAINST DRUNK DRIVING, A NON-PROFIT ORGANIZATION OF OVER THREE MILLION MEMBERS AND SUPPORTERS. MADD'S MISSION IS TO STOP DRUNK DRIVING AND TO SUPPORT VICTIMS OF THIS VIOLENT CRIME.

I HAVE LOOKED FORWARD TO THESE FEW MOMENTS WITH YOU AS I AM A NATIVE KANSAN, MY FAMILY BEING WHEAT FARMERS IN SUMNER COUNTY. I ALSO LOOKED FORWARD TO TODAY, REMEMBERING THE DAY IN 1985 WHEN I AND A ROOMFUL OF ABOUT THIRTY OTHER VICTIM ADVOCATES FROM ALL OVER THE COUNTRY MET IN WASHINGTON D.C. AND DECIDED TO SERIOUSLY CONSIDER THE RECOMMENDATION OF PRESIDENT REAGAN'S TASK FORCE ON VICTIMS OF CRIME THAT A FEDERAL CONSTITUTIONAL AMENDMENT FOR VICTIMS OF CRIME BE ENACTED. IT WAS A THRILLING DAY. HOWEVER, AFTER A COUPLE OF YEARS OF DEBATE AND THE FORMING OF VICTIMS CAN- (CONSTITUTIONAL AMENDMENT NETWORK), WE DECIDED IN 1987 THAT STATE CONSTITUTIONAL AMENDMENTS FOR VICTIM RIGHTS MADE MORE SENSE. THUS, I AM WITH YOU TODAY.

MOTHERS AGAINST DRUNK DRIVING HAS WHOLEHEARTEDLY SUPPORTED CONSTITUTIONAL AMENDMENTS FOR VICTIM RIGHTS SINCE THE BEGINNING FOR SEVERAL REASONS:

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1. WHEN VICTIMS PARTICIPATE IN THE CRIMINAL JUSTICE PROCESS, THEY RECOVER MORE SUCCESSFULLY FROM THEIR VICTIMIZATION...ALTHOUGH TOTAL RECOVERY IS NEVER COMPLETE. THEY KNOW IT WAS THEY WHO WERE HARMED...NOT THE STATE, AND PARTICIPATION MEANS ALL THE WORLD TO MOST OF THEM, PARTICULARLY FAMILIES OF THOSE KILLED. IT BECOMES ONE WAY OF TRYING TO MAKE SOME SENSE OUT OF A SENSELESS ACT OF VIOLENCE.

2. WHILE STATUTORY BILLS OF RIGHTS ARE NICE, THEY ARE ONLY A FIRST STEP. IF DEFENDANTS' RIGHTS ARE IN THE CONSTITUTION, ISN'T IT ONLY FAIR, AS A MATTER OF BALANCE AND FAIRNESS, THAT VICTIM RIGHTS BE PLACED IN THE SAME DOCUMENT AND THAT THEY HAVE THE PERMANENCE AFFORDED CONSTITUTIONAL ISSUES?

3. FINALLY, WE KNOW THAT CONSTITUTIONAL AMENDMENTS WORK. MICHIGAN PASSED THEIRS IN 1988. YESTERDAY I CALLED SENATOR BILL VAN REGENMORTAR OF MICHIGAN WHO WAS INSTRUMENTAL IN THE PASSAGE OF THEIR AMENDMENT BY OVER 90% OF THE VOTE. HE TELLS ME IT IS WORKING WELL AND HAS NOT YET BEEN CHALLENGED IN THE COURTS. AS A MATTER OF FACT, MICHIGAN SUPREME COURT JUSTICES HAVE PRAISED IT. VICTIMS ARE BEING NOTIFIED OF HEARING DATES AND OF THEIR RIGHT TO BE PRESENT AND HEARD ALL THE WAY UP THE SYSTEM. THEREFORE, THEY ARE HAPPIER AND, WHEN NEEDED AS WITNESSES, ARE VERY COOPERATIVE BECAUSE THEY FEEL

THEY ARE A VALID PART OF THE PROCESS. WHEN I ASKED IF HE SAW ANY DOWN-SIDE, HE RESPONDED, "ONLY FOR TWO PROSECUTORS - INCUMBENTS WHO WERE NOT RE-ELECTED BECAUSE THEIR CONSTITUENTS FELT THEY WERE NOT AFFORDING VICTIMS THEIR CONSTITUTIONAL RIGHTS." HE STATES THAT THE STATE HAS HAD LITTLE ADDITIONAL EXPENSE BECAUSE THEIR STATUTORY BILL, LIKE YOURS IN KANSAS, ALREADY INCLUDED NOTIFICATION, AND THEREFORE MAILING COSTS INCREASED ONLY MINIMALLY.

I THEN CALLED JAY HOWELL, AN ATTORNEY IN FLORIDA, WHO WAS INSTRUMENTAL IN THE PASSAGE OF FLORIDA'S AMENDMENT IN 1988, WHICH ALSO PASSED WITH OVER 90% OF THE VOTE. HE, TOO, STATES THAT IT IS WORKING WELL WITH ONLY MINIMAL INCREASES STATEWIDE IN MAILING COSTS. THEIR ENABLING LEGISLATION WAS PASSED AT THE SAME TIME THE AMENDMENT WAS PASSED AND HAS REQUIREMENTS FOR MANDATORY RESTITUTION AND INCOME REDUCTION, WHICH HAVE NOT YET BEEN UNIFORMLY APPLIED, ALTHOUGH ALL OTHER COMPONENTS ARE IN PLACE. THEY HAVE SEEN A DRASTIC INCREASE IN VICTIM PARTICIPATION BECAUSE EVERYONE TAKES CONSTITUTIONAL ISSUES SERIOUSLY. ALL COMPONENTS OF THE SYSTEM ARE NOW WORKING WELL FROM THE LAW ENFORCEMENT LEVEL THROUGH NOTIFICATION OF RELEASE FROM CORRECTIONS.

I COULD TELL YOU SIMILAR STORIES FROM TEXAS, WASHINGTON, AND OTHERS, BUT WON'T TAKE TIME TODAY. IN SUMMARY, I WILL CONCLUDE THAT CONSTITUTIONAL AMENDMENTS FOR VICTIMS ARE A WINNING IDEA. OUR FOREFATHERS KNEW THAT CONSTITUTIONS WOULD CHANGE WITH THE TIMES. AS THE PRESIDENTIAL TASK FORCE STATED, "THE GUIDING PRINCIPLE THAT PROVIDES THE FOCUS FOR CONSTITUTIONAL LIBERTIES IS THAT GOVERNMENT MUST BE RESTRAINED FROM TRAMPLING THE RIGHTS OF THE INDIVIDUAL CITIZEN." I DOUBT IF OUR FOREFATHERS EVER DREAMED THAT VICTIMS WOULD BE EXCLUDED FROM THE CRIMINAL JUSTICE SYSTEM AS THEY HAVE BEEN OVER THE YEARS. SO NOW IT IS CERTAINLY TIME FOR VICTIMS OF CRIME TO EXPERIENCE A BALANCED SYSTEM IN WHICH THEIR RIGHTS, AS THOSE PERSONS DIRECTLY AFFECTED BY CRIME, ARE RESPECTED BY BEING INFORMED, PRESENT, AND HEARD IN THE CRIMINAL JUSTICE SYSTEM. IT'S FAIR AND IT'S THE RIGHT THING TO DO.

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JOHN K. BREMYER
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January 31, 1992

Senator Wint Winter, Jr.
Chair, Senate Judiciary Committee
Statehouse, Room 120S
Topeka, Kansas 66612

Re: Constitutional Amendment on Victim's Rights

Dear Senator Winter:

A copy of your memorandum dated January 6, 1992, arrived in our office together with a memorandum from Ron Smith, KBA General Counsel, while I was in the midst of a two-week aggravated kidnapping and rape trial in the District Court of Harvey County, Kansas. That case serves as backdrop for my comments regarding the proposed "victim's rights" constitutional amendment, and some pertinent facts might assist you in putting these comments in perspective.

A 19-year-old woman accused three young men of kidnapping and raping her in the early morning hours of May 12, 1991, in Newton, Kansas. These young men gave voluntary statements to the police and other law enforcement officials, and consistently maintained that while they had sexual intercourse with their accuser, the intercourse was completely consensual.

Formal charges were filed in July of 1991, and the trial, which was originally scheduled for mid-October, was continued to January of 1992 in order to allow defendants to obtain a psychological/psychiatric evaluation of the complaining witness, who was obviously a disturbed young woman. We learned through our investigation that she had attempted suicide a few weeks prior to the May 12 encounter, made another suicide attempt following the preliminary hearing in this case, and engaged in self-mutilation just prior to the original trial date.

Over the course of the official investigation, the complaining witness gave glaringly inconsistent statements to law enforcement authorities, her social worker, her therapist and others. One such example is her original claim that while one of these young men was having sex with her, the other two were holding her down by her shoulders. She later testified at the preliminary hearing that she was simply mistaken about that "fact", and that the other two men were actually outside the car. Although the law enforcement authorities and the prosecutors, who were from the

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Attorney General's office, had access at all times to her inconsistent statements, they never confronted her or asked her to explain any of them.

Following a two-week trial, these three young men were acquitted on all charges after approximately one hour of deliberation.

During the course of the trial, cross-examination of the State's witnesses established that the idea of rape was inadvertently planted in the accuser's mind by her best friend, and the friend advised the police that the rape had occurred. Once the police were involved, the matter took on a life of its own. This young woman experienced more warmth and support from all of the resources available to her as a "victim" than she had ever experienced before. At that point, it became virtually impossible for her to admit that the kidnapping and rape had not occurred, as she would have lost the support of her fiance, her friends, her family, the victim-witness coordinator, the law enforcement officials, her therapists and the other people who had become so important to her. She would have had to admit that she not only lied about the kidnapping and rape but had leveled false charges against these three young men.

This raises what is for me the central issue in the whole area of "victim's rights." At the outset of a prosecution, how does one determine who is a "victim?" In the case I have just described to you, the true "victims" were the three young men who were falsely accused of these horrible crimes. Just the taint of the accusation will follow them for the rest of their lives.

An argument could also be made that the complaining witness was a "victim" in this circumstance, but she was not a victim of crime within the meaning of the proposed amendment. Rather, she was a victim of a system in which well-intentioned "victim" sympathizers simply accepted what she had to say at face value without further inquiry and pushed her through repeated court proceedings although there were clear signs everywhere that something was very wrong.

Clearly, there are legitimate victims of criminal offenses and they should not be further victimized by the system, but I do not believe that a constitutional modification of the criminal justice system is an appropriate means of supporting and assisting these people. That method may be politically expedient, but the societal cost, i.e., the impact on the rights of the accused, is monumental.

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Our criminal justice system was created and has endured for centuries based upon two fundamental and related principles. The first of these is that a person accused of crime is presumed innocent. To, in effect, showcase an accuser who claims to be a victim of crime is a blatant attempt to dilute that presumption. Second, the State has the burden of proving each and every element of the accusation beyond a reasonable doubt. Any attempt to bolster the significance of the complaining witness into something more than another witness in a criminal case, to label that person a "victim," undermines the critical right of the accused to require the State to sustain that burden in order to obtain a conviction.

The purpose of the criminal justice system is to provide protection to the accused until the State has established guilt beyond a reasonable doubt, and that is as it should be. It is not to provide redress for an individual accuser, who has civil remedies available with a far lesser burden of proof. A trier of fact, be it a judge or a jury, should be affirmatively seeking reasons to acquit an accused, rather than looking for reasons to convict.

An ancient example captures the essence of the sanctity of the rights of the accused most eloquently. Early in the 4th century A.D., a provincial governor was accused of crime. The accused simply denied the charge. When it became clear to the accuser that his case would fail, he approached Emperor Julian and cried, "Oh illustrious Emperor! If denying an accusation is sufficient, what shall become of the guilty?" Emperor Julian replied, "If an accusation of guilt is sufficient, what shall become of the innocent?"

Over the past several years, as crime has grown and fear of criminal behavior has achieved an immediacy through the media heretofore unknown throughout the populace, legislators have been subjected to increasing pressure from individuals and lobbying groups who would trample the rights of a presumptively innocent accused with the catch phrase "victim's rights." We have all heard that "criminals have too many rights and victims do not have enough." There is a natural and understandable anger at persons accused of committing crime. Similarly, there is a natural and understandable desire to aid a person who claims to have been a victim of criminal activity. However well-intentioned this sympathy might be, I feel it is imperative that the criminal justice system serve one purpose, that it remain the place where the accused can have the issue of guilt determined in a manner untainted by the mob. The imperfect sanctity of the

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process can only be further contaminated by a pre-verdict determination that a person is, in fact, a "victim".

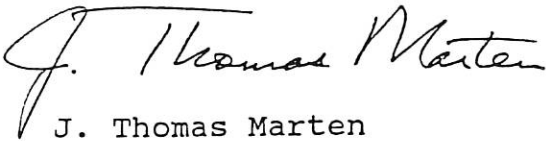
I would be pleased to visit about this with you at your convenience and you are welcome to share this letter with members of your committee.

I should also tell you that these are my personal feelings, and are not intended to reflect those of this law firm or of any other group.

I appreciate the opportunity to provide this input to you.

Very truly yours,

BREMYER & WISE, P.A.



J. Thomas Marten

JTM:lm/victim

cc: Mr. Ron Smith
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Topeka, Kansas 66612-1818

6-4/4

OUTLINE IN OPPOSITION TO THE PROPOSED
CONSTITUTIONAL AMENDMENT ON VICTIM'S RIGHTS

by

JOHN C. DONHAM
Attorney at Law
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Overland Park, Kansas 66204
(913) 648-3220

First let me say that I strongly support victims rights as expressed under K.S.A. 1991 Supp. 74-7333. Having said that, I am opposed to elevating the guidelines found under K.S.A. 1991 Supp. 74-7333 to a constitutional level.

My opposition is based upon three concerns:

- (1) An erosion of the constitutional safeguards that protect all of us against government action to deprive us of our freedom.
- (2) An increase in the administrative burden that is already overwhelming some jurisdictions.
- (3) The litigation that is sure to follow the effects of an amendment diametrically opposed to the existing amendments which protect the accused.

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I. ADVERSE TO CONSTITUTIONAL RIGHTS OF ACCUSED

- A. Why the fuss over defendants?
- B. Presumption of Innocence v. Victim
- C. Government v. Life, Liberty & Pursuit of Happiness
 - 1. Burden of proof, jury trial and government obstacles
 - (a) impaired cross examination
 - (b) reduced discovery
 - (c) prejudice rules of evidence against defendant
- D. Denial of Due Process
 - 1. The auto accident and Section 18 to the Kansas Constitution's Bill of Rights
- E. Appellate Process and Habeas Corpus
- F. Equal Protection Under the Law
 - 1. All crime victims treated equally.
 - (a) including those in custody
 - (b) the store owner

II. ADMINISTRATIVE BURDEN

- A. The Search for the Victims
 - 1. Desecrating a cemetery
 - 2. Treason
 - 3. Shoplifting From Publicly Owned Corporation
 - 4. KPERS Scandal
- B. Proof of Notice
 - 1. In absence of proof of notice, can court proceed?
- C. Deciding When a Victim is a Victim
 - 1. The Mike Tyson case
- D. All those Notices!
- E. Right to be Heard

III. UNCERTAINTY BREEDS LITIGATION

- A. From Guidelines (K.S.A. 1991 Supp 74-7333) that Ought to be Followed to an Absolute Constitutional Right
- B. "They Violated my Constitutional Rights because:
1. I was not notified."
 2. They proceeded without me."
 3. They would not grant me 'victim' status."
 4. They would not hear me out."
 5. The Court permitted the defense attorney to intimidate and harass me during cross examination - she asked me "were you lying then or are you lying now!"
- C. "My Constitutional Rights were Violated Because:
1. The Court would not allow my attorney to vigorously cross examine my accuser."
 2. The court admitted a prerecorded statement by the victim rather than require her to testify personally."
 3. To my detriment, the accuser was granted 'victim' status even though it was a jury question as to whether a crime was even committed."
 4. "Victim" status was withheld from me because I was in custody when I was raped."

JOHN C. DONHAM
ATTORNEY AT LAW
8000 FOSTER
OVERLAND PARK, KANSAS 66204
(913) 648-3220

January 17, 1992

Senator Wint Winter, Jr.
Chair, Senate Judiciary Committee
Statehouse, Room 120S
Topeka, Kansas 66612

Re: Constitutional Amendment on Victim's Rights

Dear Senator Winter:

As a criminal defense attorney in Overland Park, I received a photocopy of your letter addressed to Ron Smith of the Kansas Bar Association. I am writing you now to express my opinions concerning some of the proposed language of the constitutional amendment on victim's rights.

I have three major concerns:

1. The constitutional right of the accused to defend himself may be diminished;
2. "Victims" dissatisfied with procedural or dispositive results may overwhelm the judicial system with litigation involving perceived violations of their newly created civil rights; and
3. An already overworked and underpaid criminal justice staff will find itself even further overwhelmed by the necessity of notifying each and every "victim" of each critical phase of the judicial process.

As to my first concern, I noted several grants of power to the "victim" at the expense of the defendant. As an example, III, Sec. 1(5) insulates the accuser from effective discovery by the defendant who has a right to prepare a defense. It should not be surprising that some criminals enter into the justice system not as the defendant but as the accuser! Take for example, the insurance fraud scheme: Smith, wishing to receive the insurance proceeds for his rather expensive automobile, sells his vehicle to a distant relative and then files a police report stating that Jones, whom he never liked, stole his vehicle.

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In his report to the police, Smith claims that he was dining with friends when he looked out the window and saw Jones jump into his vehicle and speed away. Prior to trial, Jones' attorney attempts to question Smith to determine the names of the friends with whom he was dining in order to impeach his testimony at trial. Smith, exercising his constitutional rights, declines to provide any information. The trial proceeds with the classic swearing match, wherein Smith testifies that Jones stole his car and Jones, testifies he did not. The case could turn on which one of the two appears to be the most unsavory to the jury. Would you want yourself or any of your relatives or friends to be in the shoes of Jones?

Consider also III, Sec. 1(4) wherein it would appear the ability of the accused to be released on bond pending his trial may be adversely affected by the emotional "victim" who may argue against bail. Further, III, Sec. 1(9) appears to rule out the diversion program for the accused. Finally, and perhaps most ominous, is III, Sec. 1(10) which would appear to attack all of the safeguards in our rules of evidence and criminal procedure which have been designed to put the burden on the state to prove beyond a reasonable doubt that the accused is in fact guilty of the crime as charged. Whereas past experience has been the basis for the formulation of our criminal procedure and rules of evidence in order to insure that the accused gets a fair trial, subsection 10 seems to divert the focus from the rights of the accused to the rights of the victim.

My second concern with the language of some of the proposals is that it seems to lump all victims of crime under one heading. The victim of a next door neighbor whose stereo is too loud at 2:00 a.m. finds himself with the same constitutional rights as the aggravated sodomy victim. Assuming that our friend in the apartment is really hot about this matter in that he has complained to his neighbors on numerous occasions to no avail, he may be outraged when he discovers that the municipal court did not invite him to the sentencing or that the City Prosecutor's office did not confer with him prior to reaching a plea agreement. In either case, his constitutional rights have been violated, and if he is of a vindictive nature, he will soon be presenting the City with notice that he has filed the equivalent of a 1983 action against them.

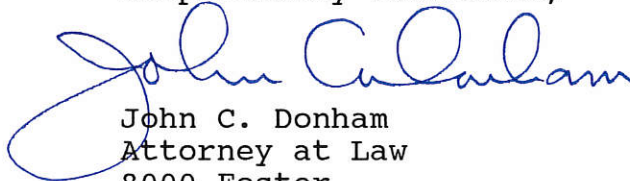
Finally, comes the overwhelming workload of all municipalities and county governments to keep all "victims" notified of each and every step taken during the entire criminal justice process. Our friend

Senator Wint Winter, Jr.
January 17, 1992
Page Three

from the apartment will have to be notified of the arraignment date and of any subsequent court appearances. If the matter is continued by verbal agreement between the City Prosecutor and the accused, that continuance shall have to be brought to the victim's attention. All municipal and county governments will have to comply with that burden or run the risk of litigation involving the denial of someone's constitutional rights.

When a crime is committed, someone is injured. When the accused is convicted of that crime, the accused must face criminal penalties as retribution. Thus, we have injuries at both ends - injury to the victim when the crime is committed, and injury to the perpetrator when he is convicted. This proposed constitutional amendment appears to focus on the criminal justice procedures that lay between. Those procedures have evolved from our experiences with Merry Old England and over 200 years as the United States of America. While I am all for victims being "made whole" (if possible), I fear that the current proposals will simply undermine what has proven to be an effective way to prevent the innocent from being convicted, add an immense litigation load from hostile "victims" who feel that their constitutional rights were violated along the way and increase the administrative loads on already overburdened judicial systems that are now struggling to keep going in the face of increased cases and decreased tax revenues.

Respectfully submitted,



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JCD:mh
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EXECUTIVE DIRECTOR, JAMES W. CLARK, CAE • CLE ADMINISTRATOR, DIANA C. STAFFORD

Concerns on the Effect of

SCR 1634

Testimony of Gene Olander Chairperson, KCDA Legislative Committee

1. What specific rights do crime victims gain by this proposed constitutional amendment?
2. Does passage of this proposed amendment supersede the specific victims rights in K.S.A. 74-7333 and 74-7335?
3. Does the proposed amendment give a criminal defendant greater constitutional rights than are now recognized in either the Kansas or federal constitutions?
4. Does the proposed amendment raise a risk of liability for state and local governments, or their officials, including courts? Does the proposed amendment require specific funding of the provisions in K.S.A. 74-7333?
5. How does the immunity clause in Section (b) of the proposed amendment differ from the immunity clause in K.S.A. 74-7333?
6. Does the power granted to the Legislature by Section (b) to "reverse, modify, or supersede any judicial decision or rule" violate the separation of powers doctrine?

Senate Judiciary Committee
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Attachment 8

Cheryl A. Stewart, Esq.
Osage County Attorney
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(913) -828-4931

TESTIMONY AGAINST A CONSTITUTIONAL
AMENDMENT

All too often, a particular group arises to demand that the Government make special provisions or laws to protect their interests. The seemingly simple solution of changing a law or a state constitution is often requested without due consideration to the effects such action will have not only on the present, but upon the future. I have come to speak to you today to address just such a demand, the demand by a minority that the Constitution of the State of Kansas be changed to address their needs.

This minority group claims that their rights as victims of crimes are not protected and that they should have a special section of the constitution constructed to address the perceived violations. What are the rights that are protected for every citizen of this nation, and this great state. We are protected from the harms and dangers that an overbearing government can deliver. We have the right to that protection, and our freedom, to act within the realm of common decency, as sometimes beyond it, is so strongly established that it is often taken for granted, until it is threatened or lost. We have the right to equal protection under the law.

Equal protection under the law, and the law at this time protects every one, for when one stands accused before the people of this state or land, one stands naked except for the protection afforded by the constitution.

The only safeguard from abuse by the government is the law. The men who designed these powerful documents, attempted to protect us from the greatest evil that they believed existed or would ever exist. In doing so, they sought to protect all individuals at a time when they had no other protection.

The victim of a homicide stands mute here to day, a representative of the most horrible of crimes, the deliberate killing of another human being. The cause of the death is topic for discussion, but the fact remains that they are dead at the hand of another person. That person, once accused, now stands before the people of this state, his "rights" protected, ensuring that his conviction and punishment are deserved and meted out upon the correct person. The same applies to the individual charged with any crime or the victim/witness of any crime.

Our system of justice has evolved over thousands of years,

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to arrive at a point where it is divided into two main categories. The criminal prosecution and the civil tort action. The criminal prosecution was developed to prevent the vindictive and irrational and unchecked retribution that prevails in a system that advocates vigilantism. This was done by placing the duty to punish an individual in the hands of the people as a whole, and not just one individual. The civil tort action is just that a civil way in which a "victim" can exact a personal payment or judgement against an individual who has harmed them.

The criminal justice system was not developed nor is it structured to allow for personal retribution. The only fair way that the system can function is if detached, uninvolved representatives of the people examine and pass judgement upon the accused person. The system, as it is currently operating, is as pure as it possibly can be as to the objectives that are before it. Much discussion can be had as to the problems existing with in it's structure, no money, no people, no one cares.

No one cares, that is the cry that I hear above the general complaints. No one cares about me, I have lost....., I have been harmed....., I hurt....., no one cares!

That statement is blatantly untrue, but yet appears to be the perception of those who have been harmed or damaged in some way.

The blame for this perception has been bandied about by every professional group involved in the system, all have felt the sting of the accusation. The sting hurts because the people involved do care, and they do the best that they can in the situations in which they find themselves. The professionals can not breath life into the homicide victim, they can not pay from there own pockets that losses that people have felt. This State has done much to see that the victims of crimes are heard and provided with all possible help. But changing the basic document of our government is not the solution.

The State can mandate that the Court Clerks be courteous, the State can mandate that the prosecutors inform their witness's of changed court dates, that the Court's order the defendant's pay restitution. In the end, does that change the loss, the hurt. The victim wants to be heard, you have been.

I stand here before you to sincerely ask that before you take an action as drastic as altering our system of criminal prosecution, that you take a long hard look at the effects that such changes will cause. I believe that to mix the civil and criminal procedures into one unit of blind retribution instead of blind justice will mark the beginning of the decline of our society into barbarism and anarchy, for then justice will not be administered by fair and detached individuals, but will be wielded by those whose personal pain demands payment.

I ask that before you take any further steps toward the proposed constitutional amendment, you ask the victims and yourselves, are you willing to live with what you are asking for.

Chief Ann Howard Ege



Toward Equal Protection Under the Law

My name is Suzanne James. I live in Topeka, and I am here today in support of Senate Concurrent Resolution 1634. and to share with you a few of my experiences and observations about one facet of the criminal justice system.

Late in the morning of December 4, 1989, I left my parents' Topeka home after learning that my stepfather had what was probably terminal cancer. As I left, my mother said, "We love you" and I told her that I loved them, too. I had no way of knowing then they would be the last words we would say to each other. Ten minutes later my parents, Nancy and Lester Haley aged 69 and 87 and their neighbor, Mrs. Verne Horne, would encounter Tyrone Baker, a teenager whose stated ambition was to become a terrorist so he could kill people, when they went to check on another neighbor who hadn't picked up her morning paper. Tyrone Baker kidnapped them at gunpoint, drove them into Douglas County and briefly abandoned them in a remote, rural area. Mrs. Horne was able to escape to seek help. Baker returned, kidnapped my parents again, and forced these elderly people into the trunk of a compact car while he drove them further into Douglas County. He then marched them down and up an embankment, through a barbed-wire fence to a crumbling limestone wall of a long-abandoned farmhouse where he executed them by shooting them five times in alternate succession. Their bodies weren't discovered until the next afternoon, and a few hours later we would learn Baker had also murdered the neighbor who hadn't picked up her newspaper by suffocating her with several layers of duct tape wrapped around her head.

As the horrifying as these events were, what would follow as we entered the criminal justice system would be nearly as cruel. The initial telephone calls I made to the Shawnee County District Attorney, who was personally handling the case, were never returned. Finally, I called the Douglas County District Attorney who carefully explained what I could expect. During this conversation, he men-

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tioned plea bargains and I asked him to notify me if and when plea bargain negotiations began. He agreed to let me know, and about six weeks later did in fact notify me that a plea bargain was being struck between the Shawnee County District Attorney and Tyrone Baker. Mr. Baker was to receive a total of 30 years for three first-degree murders, five aggravated kidnappings, and assorted other lesser charges. He stated that judges in Eastern Kansas would not sentence a young, first-time offender to any more than 30 years. We told him that such a plea bargain was completely unacceptable. In order to put a stop to these ludicrous negotiations, I on behalf of all surviving family members and Mrs. Horne, held a press conference to ask the public to help us stop the plea bargain. We also retained the services of an attorney to represent us and to act as special prosecutor pursuant to Kansas law because we had not received prior notice of plea bargain negotiations and had been left out of the the process until it was nearly signed, sealed, and delivered.

There was indeed no plea bargain. Two trials were held during a 26 month period, Tyrone Baker was convicted on all counts, and two trial judges sentenced him so that he must serve 129 years before parole eligibility, substantially more than the mere 30 years the State had been so eager to settle for in what was termed the worst crime spree in the history of Shawnee County. Had a mandatory victim notification law backed by a constitutional guarantee been in place at that time, our actions might have been avoided. In those jurisdictions that do not follow the notification statute, victims currently have no statutory remedy except to initiate recall. A Constitutional guarantee would be an excellent beginning toward balancing the scales between criminal defendants' rights and victims' rights. It would also make prosecutors more accountable for their decisions and take another step toward more humane treatment of victims and survivors in the game among lawyers that is called our criminal justice system.

Would those who oppose this victims' rights amendment because it would 'tamper with' the Constitution also prefer, for example, that only white males vote in the November election? Because it was 'tampering' that guaranteed women the right to vote under the Nineteenth Amendment and Afro-Americans to vote under the 15th and 24th Amendments.

The Bill of Rights purposefully lists the rights we enjoy as citizens of the United States, and many of

them are most frequently invoked by criminal defendants. I ask you to help expand equal protection, as several other states have, to the victims and survivors of criminal acts by voting in favor to Senate Concurrent Resolution 1634. I urge you to reject as a smokescreen the testimony of any 'public servant' who claims their county can't afford to send notification letters or make phone calls. The Kansas Supreme Court recently reaffirmed in State v. Baker that District Attorneys do not represent victims, so I ask you to let the people of Kansas decide whether crime victims deserve constitutional protection and the right to know about and have a voice in the disposition of their cases.

I know Mrs. Horne testified yesterday about the kind and compassionate treatment we received in Douglas County, for which I will always be very grateful. The District Attorneys there faithfully returned calls, met with us personally, and notified us promptly and courteously of any action taken in the case. Douglas County is an excellent example of how prosecutors and victims can work together toward fair and just dispositions.

Please demonstrate your concern for crime victims by voting for this resolution. Thank you.

Suzanne James
5345 N. W. 33rd Street
Topeka, Kansas 66618

Mr. Chairman, Ladies and Gentlemen of the committee:

On December 27th, 1990, my son Scott Dean Ellis (age 17) received severe head injuries in an single automobile accident. The driver, Ben Sassaman, had a blood alcohol test taken two hours and thirty-eight minutes after the accident. The results showed a .019 level. Scott Dean died of the injuries January 18th 1991 without regaining conscious.

Ben Sassaman was charged with aggravated Vehicular homicide. He was allowed to plea-bargained to attempted vehicular homicide. The Douglas County District attorney office told me this was a good plea, reasons:

It is hard to get a jury in Douglas County to convict on DWI.

Since the blood test was over two hours old, they would have to get an expert witness to say what the blood alcohol level was at the time of the accident.

I look at this man and said where do I pick-up my son, does this mean he is not dead. I told him my father taught me to call a horse a horse, a dog a dog and a liar a liar. He stated he was sorry that I was unhappy with the decision to plea bargain. I asked him how he would feel if the roles were reversed, he replied this is not a fair question.

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At the sentencing, september 12, 1991, Kristeen Kenney handled the court proceedings for Douglas county district attorney office. I ask to address the court through our attorney Lewanna Bell-Loyd. The judge said the district attorney would speak for the state of Kansas. Ben's Sassaman attorney made a big deal about me not wanting Ben's apology. (See attached letter). I resented the fact that the judge would not let me speak and tell why I did not want Ben's apology.

On January 21, 1992 a year to the day from Scott's funeral we were in court again when Ben and his attorney were asking to have Ben's sentence modified.

Ben's attorney stated he was having trouble understanding the report but thought it said Ben should be returned to his community. The judge replied that he and several of his college's were getting the report format changed. Ben's attorney stated that Ben had written a letter of apology to the Ellis family (copies to the judge, D.A. office, my attorney.) He pointed out I had refused the apology before. The judge look at me, I nodded, yes, I had received the apology and raised my hand. The judge ignored me when I raised my hand to speak, He would not look at me again.

The Douglas County District attorney's office stated the report said Ben did not excepted responsibility and

recommend Ben serve six months in a boot camp. He also stated what I had said to him earlier. "Anyone 14 years old and older knows not to drink and drive, if they do, they know what the outcome might be, but young men feel this will never happen to them.

The judge said the boot camp was very tough and didn't know if Ben could make it. He stated if he fail he would be returned to a regular prison. He stated they were awoken at an uncivilized hour and made to run. They are harassed like in the army only without the military part. He also stated he would not be with his family while doing time in the boot camp. He told Ben's attorney Ben could spend two more months in prison and ask for parole or take the six months in the boot camp. He also told Ben's attorney could withdraw the motion and would allow him time to talk to Ben and his mother to see what they want to do. The judge looked at the papers, Ben's family and Ben's attorney while saying this. He looked at the Ellis family and friends thanking us for coming and the same to Ben's family. I knew at this time we would not be told when the next hearing would be.

While we were talking to the district attorney outside of the courtroom Ben's attorney went into the judge's chamber. I thought the case and the motion to ammend the sentence was to be held in a courtroom not behind closed doors.

Why should the state of Kansas go to the expense of the diagnostic test and then have a judge let the prisoner make a choice as to his punishment?

Why should the state of Kansas go to the expense of the diagnostic test and then have a judge let the prisoner make a choice as to his punishment? What has this young man learned? He gets into trouble someone pays his legal fees and a judge will let him have the easy way out.

John R. Ellis
1920 Sheridan Bdg. Ln
Olathe, Kansas 66062

To whom it may concern:

In court September 12, 1991 and January 21, 1992 the attorney for Ben Sassaman stated that I had refused Ben's apology when he offered it threw his attorney to Judy Osburn, the Victim/Witness Coordinator. If Ben or his attorney would have talked to me, we may have had my full statement not part of it.

Judy Osburn did call and ask if there was anything the family could say or do to make it all right.

I stated that Ben's mother and stepfather had apologized and I felt they were sincere. She asked if Ben could also apologized. I said "It was a little late."

The night of the accident Ben and I talked when Ben, his mother and stepfather came to the hospital. I went to see Ben to see how he was and ask what happened. Ben told me how bad his arm hurt. His mother came in the room. She asked him what happened. Ben became very angry and shouted he did not know. Ben grabbed a trash can and tried to throw-up. Ben's stepfather said he could not believe they would give him painkiller after all the alcohol he drank, I left the room.

A couple of weeks later, I asked Ben's mother if we could have Scott's personal effects, She stated they would

bring them over. I saw Ben and his mother pull up in front of the house. Ben stayed in the car while his mother came to the door. She looked very pregnant at the time. I felt bad she had to walk up on iced covered steps. I thought Ben would bring the property to the door.

Ben had stayed at our house the night before the accident. It was told to me later he called his mother and told her He, Scott and myself were drinking so he was spending the night. That was a damned lie. Ben knew our address and Phone number, he could have apologized if he wanted to.

If Ben wanted to apologize he had opportunity and could have. Now I feel an apology is too late and would be used as a tool to get out of trouble.

Yes, I told her I did not want Ben's apology. What she told Ben's attorney I do not know. I feel a little truth was turned into half truth. Does this make it a half non-truth? I do not like hearing someone saying something about me I feel is a half truth. I do not like being forced to sit and listen and not have it in my power to defend myself. Perhaps if I were to commit a serious crime I would have such rights.

Feb. 14. 1992

On April 19, 1991 my ex-husband Michael Crozier beat me with his fists, kicked me and pulled me by my hair leaving several bruises. I signed a complaint of assault and battery against him on April 20th. Pictures were taken of the bruises left from the assault. The case went to court May 23, 1991 in which both my ex-husband and I were present. I had no representation. His plea was not guilty, although he admitted assaulting me. Judge Wilson stated in court that he would make a decision in the case in two weeks after reviewing the facts. Two weeks passed, I heard nothing. I called Judge Wilson and he informed me that he took the case under advisement for 90 days. I heard nothing from the court. During this time I called the police department several times to report Mike harrassing me at my residence, all of this in violation of the restraining order. Each time the police department responded they stated it was a civil matter and they could not get involved. Eight and one-half months have passed and I have not been notified nor have I heard of a judgement rendered in this case.

Dina Crozier
1741 47th Main St. Desu.
Ocala, KS 66004
755-2810

Senate Judiciary Committee
February 14, 1992
Attachment 12

February 14, 1992

To Senator Wint Winter and members of the Senate Judiciary Committee,

My name is Sherry Clayton. I am an undergraduate social work student at the University of Kansas and a member of NASW. I am a lifelong resident of Kansas and I am a victim of a violent crime committed in this state.

As outlined in the Senate Concurrent Resolution No. 1634 proposal, lines 21 - 24, entitling victims of crime to "certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process" is a very simple request, but has not been part of official policy in the District Attorney's office in Shawnee County, in Kansas. If it had been, maybe my voice could have helped keep a repeat offender off the streets, and I might have been empowered by the system, rather than being rendered mute after the initial sentencing.

I offer you a show of support for the Victim's Rights Amendment, in the form of a petition, proposed by the Kansas Chapter of NASW, signed by approximately 200 residents of Kansas, including strong support from the School of Social Welfare at KU and SRS, in Topeka.

I respectfully request that you give thoughtful consideration to this amendment, in the interest that victims of crime in this state might have the opportunity to participate in the follow-up of the judicial process for notification purposes and the recognition that their voices do count in the system.

Very sincerely yours,



Sherry Clayton
2714 SW Harland Ct.
Topeka, Kansas 66604-2687
913 233-3822

Senate Judiciary Committee
February 14, 1992
Attachment 13

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

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Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-2/19

K-NASW Asks For Your Support

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Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-3/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

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Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-4/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

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Name
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Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-5/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Heather Martin
Name

2406 Alabama #11A
Street Address or P.O. Box

Lawrence, KS 66046
City State Zip

Chris Sterling
Name

1815 Naamith Dr. #416
Street Address or P.O. Box

Lawrence KS 66045
City State Zip

Laura Moriarty
Name

1632 Engel Rd #538
Street Address or P.O. Box

Lawrence KS 66045
City State Zip

Julie McCormick
Name

1600 Gateway Ct #5-3
Street Address or P.O. Box

Lawrence KS 66049
City State Zip

Jean Alberts
Name

711 Rockledge Rd #1N
Street Address or P.O. Box

Lawrence, KS 66049
City State Zip

Julie Chadwell
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Becky L. Churchman
Name

2005 Stewart Ave.
Street Address or P.O. Box

Lawrence, Kansas 66046
City State Zip

Cristine Jawes
Name

1602 High Dr
Street Address or P.O. Box

Lawrence KS 66045
City State Zip

Elizabeth Shuman
Name

1100 MISSISSIPPI #5
Street Address or P.O. Box

Lawrence KS 66044
City State Zip

David Benintendi
Name

#1039 McCallum 1800 Engel Rd.
Street Address or P.O. Box

Lawrence KS 66045
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-4/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Laura J. Templett
Name
401 Indiana
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Karen S. Lynn
Name
5456 W. 19th
Street Address or P.O. Box
Topeka KS 66604
City State Zip

Dieter Joan T. Cunningham
Name
4200 S. 4th
Street Address or P.O. Box
Leavenworth, KS 66048
City State Zip

Randall D. Baum
Name
1100 Mississippi #5
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Linda Blackshore
Name
6517 W. 46
Street Address or P.O. Box
O.P. KS 66704
City State Zip

Khakura Shuler
Name
1425 New York
Street Address or P.O. Box
Lawrence, KS 66044
City State Zip

Flo Bunkley
Name
4731 W. 17th St. Topeka
Street Address or P.O. Box
Topeka KS
City State Zip

Topeka KS
Name
Alice Lieberman
Street Address or P.O. Box
754 Sunset Laws 66044
City State Zip

Janet L. Swall
Name
Rt 7, Box 352
Street Address or P.O. Box
Lawrence, KS 66049
City State Zip

Judith O'Mary
Name
717 Reynolds
Street Address or P.O. Box
Kansas City KS 66101
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-7/9

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Beth Peterson
Name
8134 Gnaul
Street Address or P.O. Box
Wichita KS 67207
City State Zip

Tim Wells
Name
12328 Russell
Street Address or P.O. Box
Overland Park KS 66209
City State Zip

Derek S Bridges
Name
501 Colorado C-11
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Michael R. Frow
Name
501 Colorado C-11
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Jennifer Caron
Name
1716 Kentucky #2
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Jim Wells
Name
12328 Russell
Street Address or P.O. Box
OP KS 66209
City State Zip

Melissa Goldman
Name
1518 Lilac Lane
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Carol P. Zedman
Name
904 Crestline
Street Address or P.O. Box
Lawrence KS 66049
City State Zip

Cheryl H. Kinderknecht
Name
2940 SE 33rd St
Street Address or P.O. Box
Topeka KS 66605
City State Zip

Lance Wright
Name
1312 Ohio #4
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-8/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Missy Miley
Name
1339 W Campus Rd
Street Address or P.O. Box
Lawrence, KS 66044
City State Zip

Holly Burns
Name
1339 W. Campus Rd.
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Sara Clauson Cett
Name
1704 Prestwick Drive
Street Address or P.O. Box
Lawrence, Ks 66047
City State Zip

Beth Anderson
Name
1339 W Campus Rd
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Julie Bahr
Name
1339 W Campus Rd
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Shelly A. Gossart
Name
1339 W. Campus Rd
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Heidi Y. Pattison
Name
1339 W Campus Rd
Street Address or P.O. Box
Lawrence Kansas 66044
City State Zip

[Faint Signature]
Name
[Faint Address]
Street Address or P.O. Box
[Faint City, State, Zip]
City State Zip

Christy Miller
Name
1339 West Campus Rd
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Amy Oeding
Name
1339 West Campus Road
Street Address or P.O. Box
Lawrence Kansas 66044
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-9/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Kimberly A. Hay
Name

6719 W 121st Ct
Street Address or P.O. Box

OP, KS 66204
City State Zip

Suzanne L. Zimmermann
Name

608 maine St. Apt. B
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Melissa French
Name

1339 W Campus Rd
Street Address or P.O. Box

Lawrence KS 66044
City State Zip

Stephanie M. Foley
Name

9214 England
Street Address or P.O. Box

Overland Park KS 66212
City State Zip

Kathy Powers
Name

11319 Woodward
Street Address or P.O. Box

Overland Park Ks 66210
City State Zip

Angela Bman
Name

17875 Windsor Dr.
Street Address or P.O. Box

Stilwell KS 66085
City State Zip

Jennifer Brownlee
Name

9242 W. 100th St
Street Address or P.O. Box

O.P., KS 66212
City State Zip

Sara Watch
Name

1339 W. Campus Rd.
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Michelle Quinn
Name

3801 Clinton PKwy #113
Street Address or P.O. Box

Lawrence KS 66047
City State Zip

Amy Lindenberg
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence Ks 66044
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-10/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Cary Lee Wilson
Name

1339 W. Campus Rd.
Street Address or P.O. Box

Lawrence KS 66044
City State Zip

Elizabeth Schrag
Name

1339 W. Campus Rd.
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Sue M'Antyne
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence KS 66044
City State Zip

Kari Crawford
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

ASHLEY HILES
Name

1339 W. CAMPUS RD.
Street Address or P.O. Box

LAWRENCE KS 66044
City State Zip

Melissa Henson
Name

1339 W. Campus Rd.
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Mary Elrose
Name

1339 W. Campus Rd.
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Chadi Cole
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Tina Santos
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence, KS 66044
City State Zip

Beth Schlitzhauer
Name

1339 W. Campus Rd
Street Address or P.O. Box

Lawrence KS 66044
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-1/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Tracy Bendall
Name
1339 W. Campus Rd.
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City State Zip

Shelly DeJure
Pinnacle apartment
Name
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Lawrence KS 66047
City State Zip

Jennifer Macdonald
Name
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Lawrence KS 66049
City State Zip

Heather Preston
Name
7430 NW King Ct
Street Address or P.O. Box
Silverlake KS 66239
City State Zip

Amy Tieperman
Name
1339 W. Campus Rd.
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Susan Guder
Name
1506 Lilac Lane
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Lawrence KS 66044
City State Zip

Janel Zellers
Name
1339 W. Campus Rd.
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Janina Zylowski
Name
1339 W. Campus Rd.
Street Address or P.O. Box
Lawrence, Kansas 66044
City State Zip

Margie Sumner
Name
11404 W. 112th Terr.
Street Address or P.O. Box
O.P. KS 66200
City State Zip

Martha Thompson
Name
307 S. Morris
Street Address or P.O. Box
Rose Hill KS 67133
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

ANDE WINKELBAUER
Name
6617 EVERETT
Street Address or P.O. Box
KANSAS CITY KS 66102
City State Zip

Christy Shirk
Name
3000 Shoreside Dr.
Street Address or P.O. Box
Columbia MO 65203
City State Zip

USA Surdell
Name
15045 152 Circle
Street Address or P.O. Box
Omana Ne 68144
City State Zip

Becky Stuber
Name
4208 Miller Rd.
Street Address or P.O. Box
St Joseph Mo 64505
City State Zip

Amy Ritter
Name
1339 West Campus Rd.
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

LIZ ROSE
Name
1339 W. CAMPUS DR.
Street Address or P.O. Box
LAWRENCE, KS 66044
City State Zip

DeeDee Johnson
Name
5208 Mansfield Ln
Street Address or P.O. Box
Strawnee KS 66203
City State Zip

Melanie Jones
Name
7201 Beverly
Street Address or P.O. Box
Overland Park Ks 66204
City State Zip

Imie Kelley
Name
315 Dogwood Terr
Street Address or P.O. Box
Buffalo Grove, IL 60089
City State Zip

Kelly Keppen
Name
1815 Naismith Dr # 735
Street Address or P.O. Box
Lawrence KS 66045
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-13/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Tracy Knopik
Name
837 Michigan #11D
Street Address or P.O. Box
Lawrence, KS 66044
City State Zip

Kemy Koffman
Name
1800 Naismith Dr.
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Kara Laricks
Name
420 W. 11th St. 219 South
Street Address or P.O. Box
Lawrence KS 66045
City State Zip

Sally Lorenz
Name
420 W. 11th St. 219 South
Street Address or P.O. Box
Lawrence KS 66045
City State Zip

Kate Lundholm
Name
1815 Naismith Dr. #1012
Street Address or P.O. Box
Lawrence KS 66045
City State Zip

Shawn Miller
Name
5944 Goodman
Street Address or P.O. Box
Merriam, KS 66202
City State Zip

JUSTIE MURPHY
Name
ESP 1100 #220
Street Address or P.O. Box
Lawrence KS 66045
City State Zip

Julia Tibbatts
Name
P.O. Box 163
Street Address or P.O. Box
LANSING KS 66043
City State Zip

Candice Eberle
Name
12104 Melrose
Street Address or P.O. Box
Overland Park, KS 66213
City State Zip

Abby Dreyer
Name
1331 W. Campus Rd
Street Address or P.O. Box
Lawrence KS 66045
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-14/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Jetta Huff

1339 W. Campus Rd
Lawrence KS 66044
City State Zip

Kelly Blair

1339 W. Campus Rd
Lawrence KS 66044
City State Zip

Heather Gray

9406 Huff Ln.
Lenexa KS 66215
City State Zip

Drew Yarbrough

9018 Mastin
O.P. KS 66212
City State Zip

ERIC Sorenson

13013 LARSEN
O.P. KS 66213
City State Zip

Kristy Abel

1339 W. Campus Rd
Lawrence KS 66044
City State Zip

Erin Dennis

1339 W. Campus Rd.
Lawrence KS 66044
City State Zip

Jenny Hayward

4419 W. 62nd Len S.M. Ky 66225
City State Zip

Dorinda Brady

1339 W Campus Rd
Lawrence KS 66044
City State Zip

Melissa Grace

1339 W. Campus Rd.
Lawrence KS 66044
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-15/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused,

Deanna Esten
Name
1410 Dist. Paul
Street Address or P.O. Box
Wichita KS 67203
City State Zip

Carole J. Gray
Name
2337 Murphy Dr #3
Street Address or P.O. Box
Lawrence KS 66046
City State Zip

Barbara J. Taylor
Name
2333 Ridge Court #9
Street Address or P.O. Box
Lawrence KS 66046
City State Zip

Daryl Amin
Name
Box 574
Street Address or P.O. Box
Inman KS 67546
City State Zip

Sky Westlund
Name
521 Alabama
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Luis H. Ross
Name
1007 21st St Ct
Street Address or P.O. Box
LEAVENWORTH, KS 66048
City State Zip

Carrie F. Jesse
Name
1734 Ohio #15
Street Address or P.O. Box
Lawrence KS 66044
City State Zip

Jennifer Seeley
Name
301 Ohio St #2
Street Address or P.O. Box
Lawrence, KS 66044
City State Zip

Jim Gilchrist
Name
204 W. 5th
Street Address or P.O. Box
Topeka KS 66603
City State Zip

Laurie Shirley, LCSW
Name
1019 Watson
Street Address or P.O. Box
Topeka KS 66604
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-16/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Jennifer Delgado LBSW
Name
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City State Zip

M. M. Mills, LBSW
Name
1110 Raton
Street Address or P.O. Box
Manhattan, KS 66502
City State Zip

Michael McFarland
Name
P.O. Box 318
Street Address or P.O. Box
Carbondale KS 66414
City State Zip

Carla Spicka
Name
4540 SE 28
Street Address or P.O. Box
Topeka KS 66605
City State Zip

Janet Barnes
Name
206 SE Willow Way
Street Address or P.O. Box
Topeka KS 66609
City State Zip

Rhonda Lucas
Name
2511-1 SW Buchanan
Street Address or P.O. Box
Topeka KS 66611
City State Zip

Juli A. Bauer
Name
4425 NE Coco Rd
Street Address or P.O. Box
Topeka KS 66617
City State Zip

Loren Zoloznak
Name
3501 SW Shawna
Street Address or P.O. Box
Topeka KS 66614
City State Zip

Shirley Inman
Name
Rt 1 Box 42
Street Address or P.O. Box
Leventhal, KS 66429
City State Zip

Diane Shan
Name
917 N. Topeka
Street Address or P.O. Box
Topeka KS 66608
City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-17/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Renee Stewart LBSW
Name
P.O. Box 1424
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City State Zip

Sandy Simmonds
Name
P.O. Box 1424
Street Address or P.O. Box
Topeka KS 66601
City State Zip

Robert Humphrey
Name
1334 SW Lincoln #2
Street Address or P.O. Box
Topeka, KS 66604
City State Zip

Barbara G. Anderson
Name
P.O. Box 1424
Street Address or P.O. Box
Topeka, KS. 66601
City State Zip

Katie Evans
Name
1017 Watson
Street Address or P.O. Box
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City State Zip

JAMISON W. AUSTIN
Name
2425 S.W. DUNCAN CT.
Street Address or P.O. Box
TOPEKA, KS 66614
City State Zip

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-18/19

K-NASW Asks For Your Support

KANSAS CONSTITUTIONAL AMENDMENT FOR VICTIMS' RIGHTS

We, the undersigned, believe that victims of crime shall be entitled to certain basic rights, including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process, to the extent that these rights do not interfere with the constitutional rights of the accused.

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Name

Street Address or P.O. Box

City State Zip

Joan Binkley

Name
4536 Elevation Lane

Street Address or P.O. Box
Topeka Ks. 66610

City State Zip

Name

Street Address or P.O. Box

City State Zip

Paul Clayton

Name
5731 SW 20th

Street Address or P.O. Box
Topeka Ks 66604

City State Zip

Henry C. Clayton

Name
5731 SW 20th

Street Address or P.O. Box
Topeka, Ks 66604

City State Zip

Jean J. CLAYTON

Name
5731 SW 20th

Street Address or P.O. Box
Topeka KS 66604

City State Zip

Please return this completed petition to:

The Attorney General's Victims' Rights Task Force
c/o Attorney General Robert T. Stephan
2nd Floor, Judicial Center
Topeka, Kansas 66612

13-19/19

1972
Lawrence

Testimony Before the Senate Judiciary Committee

1974
Wichita

February 14, 1992

1976
Emporia
Lawrence
Wichita
Hutchison

RE: Senate Concurrent Resolution 1634

On behalf of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV), and the more than 9000 victims we served in 1991, I wish to thank you for your consideration of this resolution.

1977
Topeka
McPherson

KCSDV strongly supports this Resolution for several reasons. First of all, we support it because it would be advantageous to the victims we serve. There is an old saying, "A woman who is raped, is raped twice: once by the perpetrator, and then again by the system." The current system, which so often denies the victim of his or her rights, imposes many obstacles to their recovery; as if the victim doesn't have enough to endure, suffering the physical and emotional trauma the crime created. Questions go unanswered, changes are made without notification, and misinformation is presented with authority.

1978
KOSAC

1979
KADVP
Manhattan
Pittsburg
Overland Park

This isn't just an inconvenience for victims. For many, it is dangerous: sometimes deadly. I have included the testimony of two of the many victims we have seen endangered due to the current lack of protection of their rights.

1980
Salina
Kansas City
El Dorado

The most common frustration of those who work with victims is not the crisis itself, but rather the constant dilemma of encouraging victims to work with the judicial system that uses and abuses them. Without a Victim's Rights Constitutional Amendment, this injustice will continue unchecked.

1981
Dodge City
Great Bend
Garden City
Liberal

Dorthy Miller, President
Kansas Coalition Against Sexual and Domestic Violence
P.O. Box 1341
Pittsburg, KS 66762

1983
Hays
Winfield
Scott City

1984
Iola
Leavenworth

1985
Hillsboro

1989
Atchison

*Senate Judiciary Committee
February 14, 1992
Attachment 14*

Testimony of Edith Strange
January 16, 1992

VICTIM vs. PERPETRATOR

I, by personal experience, can testify that victims need rights. My legal testimony enabled the court to sentence a man who kidnapped and beat me, to Lansing Penitentiary for one to three years. The perpetrator served eight months. But my terror didn't end there.

When this perpetrator was given a parole hearing, I was NOT notified by authorities. With assistance from Safehouse, I had relocated to Pittsburg from the hometown of the perpetrator for the safety of myself and my children. When the perpetrator was released from prison I was NOT notified. He was in his home town, and did not contact me for about five months. He then apparently got into some more trouble, and his parole officer placed him in a half-way house only FOUR BLOCKS from my new home, and again I was not notified.

The nightmare started over. This time, the perpetrator could just jog to my home. Disgusted, fearful, and outraged, I felt like every legal and moral right I had were overlooked. And they were. The legal system gave this perpetrator access to me against my will once again. I contacted his parole officer, and expressed my fears. He told me, "You stay away from my client! I have nothing more to say to you." After the parole office disclosed information about my call, as well as other information about me to the perpetrator, my faith in the legal system diminished enormously...to the extent that I took the perpetrator's harassment rather than call for help again. At that time I felt that if I contacted the proper authorities on his parole violation, I would be at greater risk. Besides moving him next door to me, would they also give him a loaded gun this time??

I wanted my rights, and testified for the passage of Senate Bill #356. I'm so glad I did that, because it took away this perpetrator's power. This perpetrator knows that he will now be arrested if he bothers me. Since this law came into effect on January 1, 1992, he has left me alone. This points to the obvious fact that perpetrators have no concern for their victims: until the crimes they commit hurt themselves, they will not stop.

But what about the legal system? All victims need constitutional rights which entitle them to be informed of matters which involve their safety, and to be heard when critical decisions are being made which affect their safety. Just giving rights to the victim diminishes the destructive power of the perpetrators. I have been lucky. I'm still alive. But many victims have died because our system fails them.

I have been a victim of Domestic Violence since 1989. I have been abused both mentally and physically to the point that I could not find the courage to get out of this vicious cycle of abuse. When I tried to leave, the system made it difficult to stay out. Three incidents involving either the judicial or penal system worked against me.

The first incident involved a hearing against my abuser, Tom, for assault charges. When I went to the scheduled court date to give testimony, my abuser requested continuation on the grounds that he had an absent witness who could invalidate my testimony. The judge granted this so Tom's witness could appear at a later date. I asked if I would be needed and was told that testimony would not have to be repeated. When the second court date arrived, I called the clerk and was told it had been dropped due to my absence. Ironically, Tom had not provided any witness according to the clerk. I was blamed by the court and Tom continued to harrass me.

The second incident concerns this continual harrassment by Tom while he was incarcerated at Lansing. Tom would call collect from prison numerous times in one day. Although the calls were never accepted, he tried every relative I had. When the prison was notified of Tom's behavior, it took several calls alone to find out just who would listen. I was told the only way Tom's Behavior could be stopped was by a written request with my phone number and name. The calls never stopped. Tom did eventually get released to my third attempt of dealing with a system that continually dismissed my role.

The day I found out Tom was being released from prison, I called and had it verified by their office. I wanted some stipulation on his parole that stated that he could not have contact with me. The person on the phone seemed understanding and informative. She gave me assurance that

this would be written in his file and I would be notified of his hearing. A week later I called and this time the person pleaded ignorance to everything I said and gave me a phone number to call. I called this number for three days before I made contact and then I was told to send another written request. I could not get the letter through in time. Tom is out now. He still knows more about me and my whereabouts than I do about his.

For these reasons, I believe victims should have certain rights. Each time Tom got away with one of these things, it empowered him more each time to violate me, knowing that he could get away with it. I feel that I should have been notified of his release, at the most. At the least, to be given correct information to keep myself knowledgeable and safe. We have been left out of the system long enough. We may even be of some help.

Nancy Nye

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KANSAS NASW

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Gigi Felix, LMSW

Executive Director, K-NASW

Testimony in SUPPORT of SCR 1634

Good morning Senator Winter and members of the Senate Judiciary Committee. It is my pleasure to appear before you today in support of Senate Concurrent Resolution 1634. It is one of the basic tenets of the social work profession that all persons be allowed to have the right of self determination and have equal representation in actions concerning them. This resolution gives the victims of crime that constitutional right.

Our legal system has taken a dramatic slant to ensure the rights of the accused, which we support. However, somehow in that endeavor, the victims' rights have gotten lost in the process. This resolution will do nothing to minimize, or change the rights of alleged offenders in any way. Their rights are guaranteed by the constitution. What this resolution does, is give the victims the protection of their rights under the constitution of Kansas. It is obviously not enough to have these rights embedded in statute. It is only through a constitutional amendment that the rights are **guaranteed**, and victims have recourse if they are not upheld.

I don't know if any of you have ever been a victim of a crime, or had a friend or family member be a victim, but I can tell you that it is a horrendous experience which strips you of all feelings of control, self determination, recourse as the crime proceeds through the criminal justice system, and extreme levels of frustration and anger. This affirmation of the victim's rights will help alleviate these feelings. In addition, it presents the opportunity for officials of the system to hear what the victim has to say with regard to its deliberations and decisions. The victim can be present and have the opportunity to be heard as the court and correctional systems take their course though adjudication, and possible conviction, incarceration, and release of the convicted.

Our association has taken a firm stand in supporting this resolution. Our February Newsletter, which is delivered to over 1550 social workers around our state, contained an article of support for the resolution, the tri-fold brochure prepared by the Attorney General's office, and petitions (buff colored) (see attached copies) to enable our membership to become part of the advocacy effort.

I strongly urge you, on behalf of our Board of Directors, and our membership to support this resolution, and give crime victims their rights by constitutional law.

Thank you for your time, and opportunity to appear before you.

*Senate Judiciary Committee
February 14, 1992
Attachment 15*

JOAN HAMILTON

REPRESENTATIVE, FIFTY-FIRST DISTRICT

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: FEDERAL & STATE AFFAIRS
GOVERNMENTAL ORGANIZATION
JUDICIARY

SENATE JUDICIARY COMMITTEE --- FEBRUARY 14, 1992

(I offer this testimony that I gave to the Victim Rights' Task Force in January, 1992.) Thank you.

January 6, 1992

VICTIM RIGHTS' TASK FORCE

Public Hearing, Topeka

I, Joan M. Hamilton, 51st Representative, come before you today, not only as a legislator for southwestern Shawnee County, but as a citizen, a past Parole Board Member, a past Assistant District Attorney, and a mother of three children and wife. Our state of judicial justice is in need of immediate attention and correction. We must give safety back to our citizens and help public safety get back into focus.

I applaud the efforts of this Victims Rights' Task Force, but as a member of the original Attorney General's Task Force on Victims Rights, we realized we needed much more than rhetoric and flowery words. We approached the Legislature in 1989 for a constitutional amendment --- just like the one you have offered here (yours has two additional phases), with very little support. We were asked to compromise with statutory language, which we did, and were successful at. I don't believe that doing the same thing three years later would be much more successful, though I'm not saying that you shouldn't try. But why? It is merely re-inventing the wheel, and wasting precious time for needed legislation. Though 8 states have adopted constitutional amendments for victims and victims' rights, they also have not made the progress in laws that Kansas has. This constitutional amendment would NOT be enforceable without the adjoining statutory law to enforce it.

You ask the important questions: Have you been notified of hearings involving your cases? of parole hearings? of inmates being released into your communities where you were the victim? These are important and IT IS NOT BEING DONE, BUT KANSAS A L R E A D Y HAS THE LAWS REQUIRING IT----IT JUST ISN'T BEING FOLLOWED.

WHY? ---- There are no sanctions within the law if the authorities don't follow the law...no punishment...no delays...etc. That is where we need to add "teeth to the law" to protect victims and their families. THIS CONSTITUTIONAL AMENDMENT WILL NOT PERFECT THOSE INJUSTICES.

*Senate Judiciary Committee
February 14, 1992
Attachment 16*

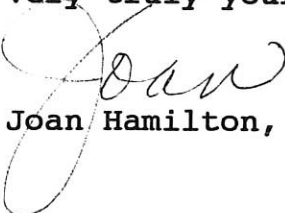
Another argument I have heard is that people feel judges, attorneys, and legislators will take it "more seriously" if the Constitution includes words protecting victims and their families. If that is what it takes to get their protection, please do it. However, the law NOW states that they must give the victims the rights that you voice within this amendment ----- query? Why would they respect the Constitution if they don't respect the law as it reads now?

Many brave steps by victims and their families, with help from law enforcement and friends, have fought against the resistance of the judicial system for "justice" and equality in the laws. I would ask this Victim Rights' Task Force to join them in their efforts and keep this ball rolling.

DON'T SLOW IT UP ----- ADD TO THE CREDIBILITY --- PUT "JUSTICE" BACK INTO THE SYSTEM WITH NEW LEGISLATION AND "TEETH".

My thanks to you for this opportunity to address you. I would be most willing to share with you present, past, and future legislation that has been and will be introduced into the Session to assure victims' rights within our judicial system and a hope for public safety and freedom.

Very truly yours,


Joan Hamilton, 51st Representative

I am here today to testify for the Victims' Rights Constitutional Amendment.

My family and I became victims when my son was murdered Dec. 9, 1988 in Wichita. Two people were charged with his death. The person who shot him was charged with involuntary manslaughter after a plea bargaining deal with the DAs office. The other was charged with aiding a felon. Released on probation after 70 days in Jopoka.

It took 5 months for the DAs office to act on the case and make the charges. The police had the proof he was murdered in Feb 1989. We made the first contact with the DAs office and all others except two. We received 2 phone calls from their office. One on telling us of the preliminary hearing, set for June 30th, the other Nov. 9 to let us know the defendants were waiving a jury trial and pleading guilty. We were not asked or conferred with about the charges to be brought against them at anytime.

In March 1991 I've received a letter from the Hutchinson Board of Corrections informing us the defendant was being released to the community via transfer to a Work Release Facility. This was done before he came up before the parole board. Then in April we received a letter from the Wichita Parole Office telling us the defendant would come up for parole consideration June 1991 no specific date, time or place. We received nothing from the DAs office regarding the comment session to be held in Wichita until May 24. The

Session was set for May 31 10:30am. We received the notice only after Corrine Radke, Chapter Leader of Parents of Murdered Children, had called and talked to Dan Franks, Crime Victim Witness Coordinator of the DA's office, on May 22. Mr Franks contacted me by phone that afternoon and advised he was sending a letter and gave me instructions on what to do the day of the Comment session.

There seems to be quite a lack of communication in the Wichita DA's office.

My family and I feel its time something is done for the victims and something done to the criminals other than just a slap on the hand and telling them no no.

Thank you
Anna Grange

Victim of accidental shooting identified

A Wichita man who accidentally killed himself with a handgun Friday night was identified Saturday as Rick L. Hitchcock, 22, of 210½ N. Ash. Police Capt. Haden Henderson said two other men in the house at 343 N. Doris, where the accident occurred Friday, were interviewed and released. Hitchcock shot himself once in the chest.

12-11-88

Two charged in man's death

Two Wichita brothers were charged Thursday in the Dec. 9 death of a man who police initially thought had shot himself accidentally.

Virgil L. Runyan, 24, was charged with involuntary manslaughter in the death of Rick Hitchcock, and Daniel R. Runyan, 22, was charged with aiding a felon.

Hitchcock, 22, died while visiting an acquaintance at 343 N. Doris. After interviewing two men who witnessed the shooting, detectives had determined that Hitchcock accidentally shot himself. However, police said, investigations later revealed that the shooting could not have been accidental.

Virgil Runyan is free on \$2,500 bond, and Daniel Runyan is free on \$1,000 bond.

Officer contends man was murdered

By Dave Hendrick
Staff Writer

Rick Hitchcock's Dec. 9 death was no accident; it was murder, Wichita Police Lt. Dave Williams said Friday.

Earlier, the death had been declared an accident.

Hitchcock, 22, died while visiting an acquaintance at 343 N. Doris. He had been shot through the left side of his chest with a .38-caliber revolver owned by one of the people who lived in the house. After interviewing the two men who saw the shooting, investigators determined that Hitchcock accidentally shot himself.

"We classified it as an accident at first, based on what the people there said," Williams said.

But at least one investigator was not satisfied. He had noticed that the revolver was in Hitchcock's right hand.

Tests to analyze powder burns on Hitchcock's clothing showed that the gun had been at least three feet from Hitchcock when it was fired, Williams said.

"This person could not have shot himself. It was not an accident, and it was not a suicide," Williams said.

The test results and investigation file were sent to the Sedgwick

County district attorney's office, where charges are being considered.

Sedgwick County District Attorney Nola Foulston said she couldn't comment on the status of the case.

Williams said he thought murder or manslaughter charges should be filed, based on the forensic test and because of the things said and done by the witnesses. Williams refused to elaborate on the things, but an autopsy report shows that one witness said Hitchcock was playing with the pistol when it went off.

There was no evidence of a scuffle, and Hitchcock had no traces of drugs in his system. It also appeared that he had not been intoxicated, Williams said.

David Hetzel of Wichita, Hitchcock's half brother, said he was happy that police continued to investigate his brother's death.

"I'd like to know the truth. I'm glad they're looking into it. I never thought it was an accident to begin with," Hetzel said.

Hetzel said that Hitchcock, a hunter, had attended a clinic on gun safety and knew how to handle guns.

Staff writer Jennifer Benjamin contributed to this report.

Man testifies about fatal shooting

Virgil Runyan asked Rick Hitchcock whether he wanted to play Russian roulette before Runyan's gun went off, a witness to Hitchcock's fatal shooting testified in court Friday. The witness, Robert J. Collins, said Runyan told him he had put the gun in Hitchcock's hand after it went off and had told police Hitchcock accidentally shot himself in the chest. Police at first ruled the December shooting death an accident but became suspicious when powder burns on Hitchcock's jacket showed the gun was fired from more than three feet away. Collins, a runaway from a group home at the time of the shooting, did not tell police his version of events until March.

After a preliminary hearing Friday, Judge David Kennedy ordered Runyan, 24, to stand trial for involuntary manslaughter in Hitchcock's death. Runyan's brother, Daniel, 22, was ordered to stand trial for aiding a felony. An Aug. 28 trial date was set for both men.

2 plead guilty in slaying

Two Wichita brothers who had told police that the shooting death of an acquaintance was accidental pleaded guilty Thursday. Virgil L. Runyan, 24, pleaded guilty to involuntary manslaughter in the December 1988 death of Rick Hitchcock, 22. Daniel R. Runyan, 22, pleaded guilty to aiding a felon.

Virgil Runyan faces a maximum sentence of 3 to 10 years in prison. His brother faces a maximum sentence of 1 to 5 years. They will be sentenced Jan. 11.

Dec. 8

Two brothers sentenced

Two Wichita brothers who had told police that an acquaintance they were with accidentally shot himself have been sentenced to prison for the man's death. Virgil L. Runyan, 24, who pleaded guilty to involuntary manslaughter, was sentenced to 3 to 10 years. Daniel R. Runyan, 22, who pleaded guilty to aiding a felon, was sentenced to 1 to 5 years.

Both were found guilty earlier this month.

Jim Ward, assistant Sedgwick County district attorney, said that Rick Hitchcock, 22, was shot to death in December 1988 after Virgil Runyan asked Hitchcock to play Russian roulette. After the shooting, the Runyans told police that Hitchcock shot himself, Ward said.

17-3/4

State-nation

Across Kansas

Judge gives maximum sentence

WICHITA (AP) — A judge gave the maximum sentence Thursday to two brothers for their role in the December 1988 shooting death of a Wichita man that they originally had claimed was a suicide.

Virgil Runyan Jr., 24, was sentenced to three to 10 years for involuntary manslaughter. Daniel Runyan, 22, was sentenced to one to five years for aiding a felon. Both men pleaded guilty to the charges earlier this month.

Rick Hitchcock, 22, was shot and killed on ~~Dec 8~~, 1988. *Dec 9*

Assistant District Attorney Jim Ward said that Virgil Runyan and Hitchcock were together the night Hitchcock was killed.

Runyan pulled out a pistol and said he wanted to play Russian roulette, Ward said. He pointed the gun at Hitchcock and pulled the trigger three times. The gun fired the third time, striking Hitchcock, Ward said.

Runyan placed the gun in Hitchcock's hand, Ward said.

Daniel Runyan was in another room when the shot was fired, but he later told police he saw Hitchcock commit suicide.

After Sedgwick County District Judge William Rustin pronounced sentence, Virgil-Runyan Sr. strode toward the bench and said it was unfair that both of his sons be sent to prison.

Daniel Runyan's attorney had requested probation.

Rustin listened to Runyan Sr. for a few moments and ordered the security guard to take him to the judge's chambers to calm down.

Hi my name is Kim Anguiano. I have been a victim of a violent crime. During my case I was informed of one thing only. The preliminary hearing in which I had to testify. All my efforts to find out the outcome failed. This year my family are the surviving victims of a violent crime. And we found the court system to be just as cold and uninformative as before. Criminals are informed of so many rights they have. But what about the rights of the victims. Their right to know that justice is being served. The information we did receive we had to fight for tooth and nail. At one point during our case this year I contacted the D.A.'s office 11 days straight, 2 to 3 times a day. And never had a call returned. Yet when you talk to them in person they say, "if you have any questions just call". They need to realize the ^{crime} was committed against a person and not the state. To have things explained and to be kept informed would help the healing process. It's a feeling you would get knowing justice is being served. People want and need to know this. I know it's hard for people to understand this who have not experienced this type of injustice. And I feel it's an injustice to the victims. This is why I'm speaking here today. So hopefully things can be changed so future victims don't have to go through the same frustrating experiences that my family and I have been through. Thank you for this time to speak today.

Senate Judiciary Committee
February 14, 1992
Attachment 18

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RALPH J. THORNE (1921-1980)

February 10, 1992

Senator Wint Winter, Jr., Chair
Senate Judiciary Committee
State House, Room 120S
Topeka, Kansas 66603

Re: Constitutional Amendment on Victim's Rights

Dear Senator Winter:

One of my partners, Joe McCarville, recently brought to my attention correspondence he sent to you regarding the above referenced constitutional amendment, and he also brought to my attention correspondence addressed to you on the same subject from Professor David J. Gottlieb of the University of Kansas School of Law and from John C. Donham, an attorney from Overland Park. I don't know where I have been for the last several months or longer while this amendment has been advocated. Prior to reading the correspondence provided me and reviewing the proposed amendments, I was only barely cognizant that this process was taking place.

However, having more fully informed myself regarding the proposal, I had to write to voice my objection to this amendment for all of the reasons eloquently stated in the correspondence referenced above. I was an Assistant District Attorney in Shawnee County for 2 1/2 years and the Reno County Attorney for 4 1/2 years. Since leaving prosecution in 1981, I have had occasion to appear on the other side of the aisle, representing criminal defendants. I strongly urge you to take into consideration that victim's rights are not only adequately protected by existing legislation but by the fact that district and county attorneys in this state are publicly elected. Any prosecuting attorney who does not adequately consider the legitimate needs of the victim must face the scrutiny of the electorate. On the other hand, overemphasizing the rights of victims could quickly turn public prosecutions into private persecutions.

Very truly yours,



Joseph O'Sullivan

JO:deb

Senate Judiciary Committee
February 14, 1992
Attachment 19

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January 15, 1992

Senator Wint Winter, Jr.
Chair, Senate Judiciary Committee
Statehouse, Room 120S
Topeka, Kansas 66612

Re: Proposed Victim's Constitutional Rights Amendment

Dear Senator Winter:

I, as a member of the Kansas Bar Association - Criminal Law Section, have been provided with the information you forwarded to Ron Smith concerning the proposed constitutional amendment on victim's rights. I could articulate specific objections sentence by sentence to the proposed amendments as they are stated in the information you provided. However, I am not so sure that that would be all that useful at this point. A few general observations perhaps would be just as useful.

I know that the victim's rights movement is part of the backlash against what some people perceive as an overindulgence in the preservation and elevation of the defendant's rights. While there is specious appeal to the idea of elevating the victim's rights to a status of constitutional protection so as to be co-equal with the defendants, such a move flies in the face of basic principles of American liberty. For hundreds of years our people have treasured the idea of protection of the downtrodden and concern for the rights of the individual. In the criminal justice system, the individual defendant is most often depised and without social support or financial resources. At the same time, the criminal defendant is the lone adversary on his side against a powerful adversary, the state or federal government. The humanity and decency with which the defendant is treated speaks directly of the level of civilization of our society. Just as the obvious humanity, decency and kindness of the American troops in Operation Desert Storm who cared for the Iraqi prisoners spoke of the American soldier's basic decency and compassion

Senate Judiciary Committee
February 14, 1992
Attachment 20

Senator Wint Winter, Jr.
January 15, 1992
Page 2

and vicariously of the decency and compassion of the American people.

I see provisions in a constitution which require overt action on the part of the government to be fraught with danger. That is not to say that the specific actions suggested in the different proposals are bad ideas. I much prefer the concept where the government is restrained from taking certain actions by the constitution with individuals having the right to require the government to refrain from those actions. We don't tinker with the Constitution every year. How do we know that these required programs will be the most appropriate a generation from now?

All of the actions proposed by these various drafts are in the nature of a good idea. I have spent several years as a prosecutor and believed that it was my duty as a prosecutor to provide the types of services that are described. However, I did not believe that it was the constitutional right of the victim to receive those services. Rather, it was my duty as a government official and servant of the people to provide them. I think that just as you as a legislator would consider it unwise to give individuals a constitutional right to have you vote a certain way in different types of legislation, it is unwise to give individuals a constitutional right to have certain public officials in the executive or judicial branches of government act in a certain way. Therefore, I would suggest that you before proposing any constitutional amendment severely limit the nature of overt activity required of public officials.

Very truly yours,



Joseph L. McCarville III

JLM:deb

Ron Smith

20-7/2



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January 20, 1992

Senator Wint Winter, Jr.
Chair, Senate Judiciary Committee
Statehouse, Rm 120S
Topeka, Kansas 66603

Dear Senator Winter:

I have received a copy of the proposed victim's rights constitutional amendment. I have a number of concerns with various sections of the proposal.

The proposal seems to contain three sections.

1. The second of the three sections is a verbatim copy of KSA 74-7333(a). For some reason, the proposal omits subsections (b) and (c) from the statute. It is completely unclear whether the task force, by omitting these sections, has determined that they should be repealed.

In any event, I can see no reason why the statute should now be made a part of a constitutional amendment. The statute was passed in the 1989 session. I know of no litigation that it has occasioned. It seems to me that the statute ought to be retained in its present form, unless someone can come up with a good reason why it is inadequate.

As a philosophical matter, the placement of this provision in a Bill of Rights is somewhat unusual. Generally, the provisions of a Bill of Rights set out those rights that the government may not infringe. A Bill of Rights for victims, on the other hand, would seem to contemplate some kind of affirmative steps required to be taken by government. In that regard it sounds more like a right to shelter, or a right to health care.

2. The section that begins as Roman Numeral I is a very vague statement of victims' rights. It says that victims shall have "certain basic rights," "including the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process." I am opposed to this language, because I believe it is both vague and possibly harmful.

First, the language is open-ended. It invites litigants and courts to argue over what rights victims may have, in addition to those listed in the paragraph. In addition, the proposal does not provide anything in the way of legislative history to indicate what rights, in addition to those listed, ought to be implied.

As to those rights that are listed, the statute is problematic. It provides the right "to be heard" at all "critical stages" of the prosecution. Critical to whom? It is extremely easy to think of proceedings that are now regarded as critical where victim input would be inappropriate. In a suppression hearing involving a search of the suspect's dwelling, the victim more often than not will have nothing legally relevant to say. Similarly, in a hearing to suppress a confession, the victim of the crime will have nothing legally relevant to offer. For what purpose should a victim "be heard" at a suppression hearing? Other "critical stages" where a victim's testimony would likely be irrelevant would include competency, sanity proceedings, hearings on ineffective assistance or conflict of interest, hearings on change of venue, and other examples too numerous to mention.

In addition to the question of relevancy, there is the question of the extent to which this right trumps the prosecutor's ability to run his or her case. It is clear that a victim has no right to appear for the defense over defense objection. Does the victim have the right to present evidence for the prosecution in a proceeding where the prosecution believes it will harm its interests?

The right provided by the victim to be "present" at all stages of the criminal process is almost certainly misleading, unless it is to be interpreted to change a defendant's rights (which it claims not to do). In any trial where the victim is likely to testify, he or she will be subject to an exclusion order, just like any other witness. I assume that this statute is not designed to make the revolutionary change of exempting victims from exclusion orders. If not, the statute is gravely misleading.

I also assume that the statute does not alter the right, in extraordinary circumstances, of the defendant to close certain proceedings to the public.

If I am correct in my interpretation of this section, the right that remains to victims is the same right available to other potential witnesses and members of the public to attend proceedings. Thus, the statute is misleading. It promises rights that it cannot deliver. As you know, just a couple of days ago, I spent time discussing the sentencing guidelines. One of the main concerns in that process has been "truth in sentencing." I support that concept. I also support truth in criminal procedure. If we are going to promise new "rights" to victims, I believe we should define them more carefully and decide where they are appropriate. Otherwise, we are left with vague statements that almost certainly will promise more than they will deliver.

As to the right to be informed, that is already a part of KSA 74-7333(a)(4). It is disappointing, however, if a new right is to be created, that the drafters disclaim any interest whatsoever in providing a remedy. Although I understand the desire of the task force not to create a new damage action or give a windfall to a criminal defendant, there are other remedies that might be considered. For example, the obligation to inform victims could be made a part of attorney discipline for prosecutors, with sanctions available through the disciplinary process for willful failure to acknowledge the concern of victims. The possibility of attorney sanctions is a part of the ABA guidelines for fair treatment of crime victims and witnesses. Those guidelines, a copy of which I have enclosed, are, in my view, vastly superior to the proposals pending before the legislature.

Finally, the final two paragraphs dealing with remedies contain language that is confusing at best. The proposal holds that if the legislature disagrees with a judicial decision regarding victim rights, the legislature is given power to reverse, modify or supersede, "any judicial decision or rule arising from any cause of action" brought pursuant to this section. If the section is intended to be a constitutional amendment, this seems contrary to basic principles of judicial review. If it's intended to be a statute, obviously the legislature retains the power to rewrite the statute prospectively. However, in criminal actions the ex post facto clause prohibits the legislature from retroactively superseding a judicial interpretation if it works a substantive disadvantage to a defendant.

3. The third proposal on "victims' constitutional rights" is, in my view, the worst of the three. My objections include the following:

a. The language about the victim's right to be present at all criminal proceedings (#3) is problematic, as I noted above.

b. The right to be heard (at least if it means in person) at sentencing (#4) may alter some procedures that are being proposed with respect to guideline sentencing. If the right includes the right to give evidence on factual issues, due process would almost surely require giving the defense the right to cross-examine the victim, and perhaps even the right to offer contrary testimony of his own.

b. The language concerning the right to refuse a deposition (#5) is contrary to current law. Depositions in criminal cases can be granted only upon court order. If the conditions in the discovery statute are met, I can see no reason why a right to refuse to give the deposition should be granted. I would also assume that there is no right at present for a victim in a criminal case to refuse to give a deposition in a related civil action, and I would think that there would be severe due process problems with giving one party in a civil action a unilateral right to refuse to give a deposition.

c. The granting of a general right to be heard at post-conviction proceedings (#8) is a terrible idea. First of all, it obviously cannot serve to grant a right to federal collateral proceedings, so it is bound to mislead certain victims. As to state post-conviction proceedings, most deal with legal questions where the victim's views are simply irrelevant. I can see no purpose whatsoever to allowing a victim to be "heard" on the question of whether the defendant received the effective assistance of counsel. The victim's views in most cases will be absolutely irrelevant to the legal and factual issues.

d. The grant of the right to a speedy trial to the victim (#9) is problematic, if taken seriously. What if the prosecutor has a valid reason for wanting a continuance? Does the victim's desire override the prosecutor's need to prepare for trial? What if the defense requests additional time and the request is in good faith? Does the victim's "right" to a speedy trial justify denying the request. Our State spent a great deal of effort to enact a speedy trial statute designed to balance the needs of all concerned. If this alters the law, I'm opposed to it, since I favor the law as it stands. If it doesn't alter the law, I'm opposed to it, because it consists of blatant false advertising.

e. Similarly, I'm opposed to language that directs that "all" rules governing criminal procedure protect victim's rights, (#10) unless the rule is required to protect the constitutional rights of the accused. Does this mean that such rights will always override the interest in protecting a defendant's rights as long as the right is not required by the constitution? On the other hand, if the statute means only that the concerns of victims should be taken into account in the rule-writing process, I fail to see how it grants anything that does not already exist.

f. Section 3's definition of a victim is vindictive and possibly unconstitutional. It explicitly precludes someone "in custody for an offense" from becoming a potential victim. Why? Individuals in prison for one offense can be, and are, victimized by fellow-inmates. I am at a loss to understand why they should not also have the right to be informed of proceedings, or have the rights to participate and respond, subject to reasonable security constraints of the institution. Moreover, the definition of "in custody" for an offense is unclear. Does this also preclude someone in jail awaiting trial from being considered a victim of any offense? Precluding arrestees from the definition would present serious equal protection problems, as well as violate the due process prohibition of punishment before trial. If the reason for the limitation is the cost of transporting these individuals for hearings, those costs would also exist for individuals in SRS custody, yet they are not excluded.

g. The proposal as a whole suffers because it creates rights without any remedies. It prohibits, sensibly, a defendant from benefitting from any violation; it also prohibits a suit for damages. What force, then, does it have? It seems to me that if

we are serious about victim rights, we must define how those rights must be respected and how violation of those rights may be sanctioned. As I mentioned before, the one means I see as a beginning is the attorney discipline process.

Finally, a personal note. Although you are surely aware I spend a good deal of my professional time representing criminal defendants, I have also been a victim of crime. A number of members of my family have as well. I believe strongly that victims are entitled to courtesy, to consideration, and to be informed of developments in a criminal case. The statute we have on the books already states that principle. I am opposed to further statements of sentiment unaccompanied by specifics or remedies. These statements have an obvious short-term political value. I believe, however, that in the long run they will breed cynicism about the law and invite litigation.

Very truly yours,



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